

In the United States Court of Federal Claims

No. 21-1994C

(Filed: March 9, 2022)

ROBERT S. CARLBORG,

Plaintiff,

v.

UNITED STATES,

Defendant.

ORDER

On March 3, 2022, the parties filed a joint motion to voluntarily remand this military pay case to the Board for Correction of Naval Records (BCNR or board) and to stay further proceedings before this Court pending further action by the board. See ECF No. 16. In support of their joint filing, the parties represent to the Court that neither the plaintiff nor his counsel received copies of the underlying BCNR advisory opinions and, consequently, the plaintiff's failure to respond prior to the board adjudicating the issues presented was inadvertent. Both parties submit that the proposed remand will enable the BCNR to assess the merits of plaintiff's claims, allow plaintiff to supplement the administrative record presented to the board and this Court, and may resolve certain issues pending before this Court; at a minimum, the parties represent that the Court will benefit from a more complete administrative record upon which to decide any remaining issues in dispute.

The Court agrees with the parties that the requested remand to the BCNR is appropriate in this matter as is the parties' request to stay proceedings. For good cause shown:

- 1) Pursuant to RCFC 52.2(a), this military pay case is **REMANDED** to the BCNR to conduct further proceedings and consider plaintiff's claims and responses to the advisory opinions relied upon by the board in reaching its initial decisions;
- 2) Pursuant to RCFC 52.2(b)(1)(A), plaintiff shall submit to the BCNR his responses to the advisory opinions, if any, on or before **April 22, 2022**;
- 3) Pursuant to RCFC 52.2(b)(1)(A), the BCNR shall complete its review within **120 days** of receiving plaintiff's submission.

- 4) The Court will retain jurisdiction over the case during the remand period. Pursuant to RCFC 52.2(b)(1)(C), the Clerk's Office is directed to **STAY** all proceedings in this matter until further order of the Court;
- 5) Pursuant to RCFC 52.2(b)(1)(D), the defendant shall file a **Status Report** on or before **June 6, 2022**, and every 90 days thereafter during the remand period.
- 6) Pursuant to RCFC 52.2(e)-(f), the parties shall file a **Joint Status Report** with the Court within 30 days of the filing of the final decision or other action on remand setting forth the parties' position(s) regarding whether further litigation of this matter is necessary. If further proceedings are warranted, the parties shall include a proposed schedule to govern this case going forward.
- 7) The Clerk shall serve a copy of this Order to the Board for Correction of Naval Records:

Elizabeth A. Hill, Executive Director
Board for Correction of Naval Records
701 South Courthouse Road
Building 12, Suite 1001
Arlington, VA 22204-2409

It is so **ORDERED**.

s/ Armando O. Bonilla

Armando O. Bonilla
Judge